

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Caitlin Schwartz	Team: Squad #10	CCRB Case #: 201600381	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/18/2014 8:15 PM, Wednesday, 09/23/2015, Monday, 01/04/2016, Thursday, 01/07/2016	Location of Incident: East 197th Street and Bainbridge Avenue; East 197th Street and Briggs Avenue	Precinct: 52	18 Mo. SOL 3/18/2016	EO SOL 3/18/2016	
Date/Time CV Reported Wed, 01/06/2016 2:34 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/18/2016 3:03 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Kevin Maloney	00000	904435	PBBX
2. POF Maria Imburgia	15286	954960	PBBX
3. POM Michael Carbone	12540	950159	052 PCT
4. DT1 Marcos Vazquez	05547	898841	I.A.B.
5. SGT Joseph Agosta	04544	934818	I.A.B.

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Hannigan	9586	954913	PBBX
2. SGT William Tergesen	03083	946316	I.A.B.
3. SGT Amy Morin	03144	946034	I.A.B.

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Carbone	Abuse: On September 18, 2014, at East 197th Street and Bainbridge Avenue in the Bronx, PO Michael Carbone stopped § 87(2)(b)	
B.LT Kevin Maloney	Abuse: On September 18, 2014, at East 197th Street and Bainbridge Avenue in the Bronx, Lieutenant Kevin Maloney stopped § 87(2)(b)	
C.LT Kevin Maloney	Discourtesy: On September 18, 2014, at East 197th Street and Bainbridge Avenue in the Bronx, Lieutenant Kevin Maloney spoke discourteously to § 87(2)(b)	
D.LT Kevin Maloney	Abuse: On September 18, 2014, at East 197th Street and Bainbridge Avenue in the Bronx, Lieutenant Kevin Maloney frisked § 87(2)(b)	
E.LT Kevin Maloney	Abuse: On September 18, 2014, at East 197th Street and Bainbridge Avenue in the Bronx, Lieutenant Kevin Maloney searched § 87(2)(b)	
F.LT Kevin Maloney	Discourtesy: On September 18, 2014, en route to the 52nd Precinct stationhouse, Lieutenant Kevin Maloney spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G.POF Maria Imburgia	Force: On January 4, 2016, at East 197th Street and Briggs Avenue in the Bronx, Police Officer Maria Imburgia used a chokehold against § 87(2)(b)	
H.POF Maria Imburgia	Force: On January 4, 2016, at East 197th Street and Briggs Avenue in the Bronx, Police Officer Maria Imburgia restricted the breathing of § 87(2)(b)	
I.LT Kevin Maloney	Abuse: On January 4, 2016, at East 197th Street and Briggs Avenue in the Bronx, Lieutenant Kevin Maloney threatened § 87(2)(b) with the use of force.	
J.LT Kevin Maloney	Abuse: On January 4, 2016, at the 52nd Precinct stationhouse, Lieutenant Kevin Maloney authorized the strip-search of § 87(2)(b)	
K.DT1 Marcos Vazquez	Abuse: On January 7, 2016, Detective. Marcos Vazquez searched § 87(2)(b) in the Bronx.	
L.SGT Joseph Agosta	Abuse: On January 7, 2016, Sergeant Joseph Agosta searched § 87(2)(b) in the Bronx.	

Case Summary

On January 6, 2016, § 87(2)(b) filed this complaint with the Internal Affairs Bureau, generating IAB log 16-513, which was received by the Civilian Complaint Review Board on January 18, 2016. § 87(2)(b)'s original complaint was regarding his arrest on January 4, 2016. Upon § 87(2)(b)'s interview at the CCRB on January 21, 2016, he made an additional complaint about a past incident involving one of the same officers, Lt. Kevin Maloney of Patrol Borough Bronx. § 87(2)(b) did not know the date of this past incident, but it was determined via investigation to be September 18, 2014.

On September 18, 2014, at approximately 8:15 p.m., at East 197th Street and Bainbridge Avenue in the Bronx, Lt. Maloney and PO Michael Carbone, of the 52nd Precinct, stopped § 87(2)(b) and his friend, § 87(2)(b) and effected § 87(2)(b)'s arrest (**Allegations A and B**). § 87(2)(b) was placed against a nearby wall while § 87(2)(b)'s arrest was effected. § 87(2)(b) complained about being placed against the wall, at which point Lt. Maloney allegedly told him, "I don't give a fuck. Get against the wall" (**Allegation C**). Once he was against the wall, Lt. Maloney allegedly frisked § 87(2)(b) and allegedly searched him by removing his wallet from his back pocket (**Allegations D and E**). § 87(2)(b) was then placed in the police vehicle, and § 87(2)(b) was released. Upon releasing § 87(2)(b) Lt. Maloney allegedly told him, "Get the fuck outta here and go home" (**Allegation C**). The investigation determined that § 87(2)(b) was in possession of a bag containing marijuana laced with PCP, and that he dropped this bag onto the ground upon seeing the officers' vehicle, even though § 87(2)(b) denied this account. The officers recovered the narcotics after § 87(2)(b) left the scene. They then checked the vicinity for § 87(2)(b) in order to effect his arrest. § 87(2)(b) alleged that while in the vehicle with Lt. Maloney and PO Carbone, Lt. Maloney allegedly repeatedly told him, "Shut the fuck up," and also, "Be quiet. Don't say shit" (**Allegation F**). § 87(2)(b) approached the officers because he wanted to retrieve some of his property that he left at the scene of § 87(2)(b)'s arrest, and upon encountering § 87(2)(b) again, the officers effected his arrest.

On January 4, 2016, at approximately 11:26 p.m., Lt. Maloney observed § 87(2)(b) make two distinct sales of crack cocaine to two different individuals at East 197th Street and Briggs Avenue in the Bronx. Lt. Maloney then picked up two officers assigned to Patrol Borough Bronx, PO Maria Imburgia and PO James Hannigan, who were working a foot post on East 194th Street. PO Imburgia and PO Hannigan got into Lt. Maloney's vehicle, and he apprised them of his observations of § 87(2)(b). Lt. Maloney drove back to where he had previously seen § 87(2)(b) and when they found him, they exited the vehicle to effect his arrest. § 87(2)(b) alleged that while the officers cuffed him, PO Imburgia placed her forearm across the back of his neck, causing his breathing to be restricted (**Allegations G and H**). § 87(2)(b) further alleged that after he was cuffed, Lt. Maloney told him, "If you move, I'll shoot you. I'm gonna hurt you" (**Allegation I**). At the 52nd Precinct stationhouse, Lt. Maloney authorized a strip-search of § 87(2)(b) (**Allegation J**). The strip-search was conducted by PO Hannigan, who was assisted by an officer.

Surveillance footage capturing the incident was obtained from 2830 Briggs Avenue in the Bronx. The video footage does not specifically capture any allegations (Board Review 43).



Ortiz Video.mp4

On January 6, 2016, at approximately 9:25 p.m., § 87(2)(b) called Group 22 of the Internal Affairs Bureau to complain about his arrest on January 4, 2016. IAB Det. Raul Rolon reported from the command center that § 87(2)(b) had made threats against Lt. Maloney. On January 7, 2016, at approximately 8:40 a.m., Sgt. William Tergesen of IAB Group 22, accompanied by Sgt. Joseph Agosta, Sgt. Amy Morin and Det. Marcos Vazquez, went to § 87(2)(b)'s house, § 87(2)(b) of § 87(2)(b) in the Bronx, to interview § 87(2)(b) regarding his complaint, and also to effect his arrest pursuant to the open UF61 prompted by his threats against Lt. Maloney. § 87(2)(b) alleged that two officers, identified by the investigation to be Sgt. Agosta and Det. Vazquez, walked into other rooms of the house (**Allegations K and L**). § 87(2)(b) reported that Det. Vazquez went into his kitchen, from where § 87(2)(b) heard him “messaging” with the forks and knives. He reported that Sgt. Agosta walked into the hallway, and looked into § 87(2)(b)'s bedroom and § 87(2)(b)'s parents' bedroom. § 87(2)(b) was transported to the 52nd Precinct stationhouse.

Mediation, Civil and Criminal Histories

- This complaint was deemed unsuitable for mediation § 87(2)(g)
- On April 12, 2016, an inquiry was sent to the NYC Comptroller's Office regarding whether § 87(2)(b) or § 87(2)(b) has filed a notice of claim regarding any of the pertinent incidents. Results are pending and will be included in the case file upon their receipt.
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)
- § 87(2)(b)

Civilian and Officer CCRB Histories

- This complaint is § 87(2)(b)'s first complaint with the CCRB § 87(2)(b).
- This complaint is § 87(2)(b)'s first complaint with the CCRB (Board Review 21).
- PO Carbone has been a member of the NYPD for four years. He has eight CCRB allegations against him, pertaining to five CCRB cases. Among these allegations, there is neither a substantiated allegation § 87(2)(g) (Board Review 23).
- Lt. Maloney has been a member of the NYPD for 22 years. There are 44 total CCRB allegations against him, involving 17 cases. Of these 44 allegations, eight were substantiated against Lt. Maloney. In CCRB case number 9601814, two discourtesy allegations were substantiated against Lt. Maloney. The Board recommended Command Discipline for both allegations; the NYPD dispositions and penalties are not listed. In CCRB case number 9602913, force and discourtesy allegations were substantiated against Lt. Maloney. The Board recommended Command Discipline for both of these allegations, but there is no NYPD disposition or penalty listed for either of them. In CCRB case number 200402794, strip-search and frisk allegations were substantiated against Lt. Maloney, and the Board recommended charges in regards to both. The NYPD disposition was instructions, and the NYPD implemented instructions as a penalty. In CCRB case number 200411152, two force allegations were substantiated against Lt. Maloney, and the Board recommended charges in regards to both. The NYPD did not take any disciplinary action, and no penalty was implemented (Board Review 24).
- PO Imburgia has been a member of the NYPD for two years. These CCRB allegations are the first against her (Board Review 25).
- Det. Vazquez has been a member of the NYPD for 25 years. There are six CCRB allegations against him, pertaining to three CCRB cases. Among these allegations, there is neither a substantiated allegation § 87(2)(g) (Board Review 26).
- Sgt. Agosta has been a member of the NYPD for eight years. There are eight CCRB allegations against him, pertaining to five cases. § 87(2)(g) There is one substantiated allegation against Sgt. Agosta. In CCRB case number 200803579, a physical force allegation was substantiated against Sgt. Agosta, and the Board recommended Command Discipline in regards. The NYPD declined to take disciplinary action, and there is no corresponding penalty listed (Board Review 27).

Potential Issues

- § 87(2)(b) was uncooperative with the investigation, and did not provide a verified statement (See Contact Attempts IA, Board Review 03).

Findings and Recommendations

Allegations not pleaded

- **Abuse:** § 87(2)(g) The officers approached § 87(2)(b) to effect his arrest after observing him drop a marijuana cigarette. § 87(2)(g)

- **Abuse:** § 87(2)(g) [REDACTED]
[REDACTED] The officers approached § 87(2)(b) to effect his arrest after Lt. Maloney observed him selling crack cocaine. § 87(2)(g) [REDACTED]
- **Discourtesy:** § 87(2)(b) reported that he was standing in front of his house when Lt. Maloney yelled out the window of his vehicle, “Hey asshole, do you have any drugs on you?” § 87(2)(b) did not know the date on which this incident happened, and could not specify the month or time of year during which he believed it happened. § 87(2)(b) believed that the incident happened in either 2014 or 2015. § 87(2)(g) [REDACTED]
[REDACTED]

Allegation A—Abuse of Authority: On September 18, 2014, at East 197th Street and Bainbridge Avenue in the Bronx, PO Michael Carbone stopped § 87(2)(b)

Allegation B—Abuse of Authority: On September 18, 2014, at East 197th Street and Bainbridge Avenue in the Bronx, Lt. Kevin Maloney stopped § 87(2)(b)

Allegation D—Abuse of Authority: On September 18, 2014, at East 197th Street and Bainbridge Avenue in the Bronx, Lt. Kevin Maloney frisked § 87(2)(b)

Allegation E—Abuse of Authority: On September 18, 2014, at East 197th Street and Bainbridge Avenue in the Bronx, Lt. Kevin Maloney searched § 87(2)(b)

§ 87(2)(b) reported that he and § 87(2)(b) were smoking cigarettes on the corner when Lt. Maloney and PO Carbone exited a marked vehicle and approached them. § 87(2)(b) and § 87(2)(b) denied that they were under the influence of any drugs or alcohol at the time of this incident. § 87(2)(b) and § 87(2)(b) reported that they were accompanied by a third individual, whose name § 87(2)(b) knew only as “§ 87(2)(b)” but this individual could not be identified by the investigation, and was absent from officer testimony and police documentation of the incident. Moreover, during a conversation with Sgt. Angelo Sedacca of IAB Group 22 for its investigation of this incident, § 87(2)(b) said that he knew this other companion only as “§ 87(2)(b)” or “§ 87(2)(b)” (Board Review 44).

PO Carbone and Lt. Maloney both testified that as they were on patrol in a marked vehicle, they observed § 87(2)(b) and § 87(2)(b) on the corner. As they got closer to the men, both men dropped objects to the floor. § 87(2)(b) dropped a lit cigarette, and § 87(2)(b) dropped an object that Lt. Maloney described as a “baggie,” but PO Carbone did not initially see well enough to describe. Both officers perceived § 87(2)(b) and § 87(2)(b)’s actions as being in response to seeing the police vehicle. This reaction prompted the officers to exit their vehicle and approach the men. Lt. Maloney testified that he smelled PCP upon exiting the vehicle, and PO Carbone testified that he detected an odor of marijuana at this point. PO Carbone recovered the cigarette that § 87(2)(b) had dropped, and determined that it was a marijuana cigarette. § 87(2)(b) was subsequently arrested.

§ 87(2)(b) was placed against the wall while the officers effected § 87(2)(b)’s arrest. § 87(2)(b) alleged that Lt. Maloney frisked him, first around the waistband, then the front and back of his upper body. Lt. Maloney allegedly also frisked § 87(2)(b)’s legs and stuck his fingers into the openings of § 87(2)(b)’s shoes and socks. Lt. Maloney also removed § 87(2)(b)’s wallet from his back pocket, but conducted no additional search of § 87(2)(b). § 87(2)(b) corroborated this account in a phone statement to the CCRB, but § 87(2)(b) became uncooperative with the

investigation thereafter, and his statement was not verified. Neither Lt. Maloney nor PO Carbone could recall whether § 87(2)(b) was frisked or searched on the scene. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

The officers testified that they checked the immediate area for the object that they had seen § 87(2)(b) drop, but they were unable to find anything. Given that they lacked probable cause to arrest § 87(2)(b) § 87(2)(b) was released from the scene. After § 87(2)(b) left the scene, they found a blue baggie, which they believed to be the object dropped by § 87(2)(b). Lt. Maloney testified that he found the bag in the precise spot where § 87(2)(b) had previously been standing, prompting him to believe that § 87(2)(b) had been standing on top of the baggie in order to conceal it. Lt. Maloney said that the bag appeared to contain marijuana coated by an oily substance, which he believed to be PCP. Both officers further testified that they suspected that the bag contained PCP due to its smell. As the officers had observed § 87(2)(b) in possession of this bag, upon finding it, the officers had probable cause for his arrest, and went to find him.

Upon their arrests, § 87(2)(b) and § 87(2)(b) were charged with § 87(2)(b) § 87(2)(b), and § 87(2)(b), respectively. An alleged marijuana cigarette was vouchered in connection with § 87(2)(b)'s arrest, and an alleged PCP cigarette was vouchered in connection with § 87(2)(b)'s arrest (Board Review 37 and Board Review 38). § 87(2)(b) and § 87(2)(b) each received a desk appearance ticket regarding his arrest. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b). On § 87(2)(b), Sgt. Sedacca further reported that he had received the lab results from the District Attorney's office regarding the substance found to be in § 87(2)(b)'s substance, and it was confirmed to be PCP (Board Review 44).

A police officer needs only an objective credible reason to approach an individual and request information. In order to obtain explanatory information via a common-law inquiry, which may include questions of a more accusatory tone or nature, an officer must have founded suspicion that criminality is afoot. An officer may stop an individual when he has reasonable suspicion that said individual has committed, is committing, or is about to commit a crime. *People v. DeBour*, 40 N.Y.2d 210 (1976) (Board Review 30). A common-law inquiry only allows for a brief detention for the purpose of obtaining explanatory information. Reasonable suspicion of the defendant's commission of a crime is necessary to forcibly detain said defendant for investigation. *People v. Lee*, 96 A.D.3d 1522 (4th Dept. 2012) (Board Review 31). The courts have upheld that a police officer's observations of an individual acting startled upon noticing the police presence, in conjunction with an apparent attempt to discard an object, constituted sufficient basis for a founded suspicion that criminality was afoot. *In the Matter of Steven McC.*, a Person Alleged to be a Juvenile Delinquent, 304 A.D.2d 68 (1st Dept. 2003) (Board Review 32).

§ 87(2)(g)

[REDACTED]

Allegation C—Discourtesy: On September 18, 2014, at East 197th Street and Bainbridge Avenue in the Bronx, Lt. Kevin Maloney spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that when he complained about being placed against the wall, Lt. Maloney told him, “I don’t give a fuck. Get against the wall.” § 87(2)(b) further alleged that when Lt. Maloney told him that he was free to go, he said, “Get the fuck outta here, and go home.” In a phone statement, § 87(2)(b) made his own discourtesy allegations against Lt. Maloney, and did not independently make any on § 87(2)(b)’s behalf. However, when asked about profane statements that § 87(2)(b) reported Lt. Maloney making, § 87(2)(b) said that he believed Lt. Maloney said something along the lines of, “Get the fuck against the wall,” or, “Don’t worry about it; get against the fucking wall.” § 87(2)(b) also confirmed that upon releasing § 87(2)(b) Lt. Maloney said, “Get the fuck outta here.” As mentioned earlier, § 87(2)(b) became uncooperative after providing a phone statement, and did not provide a CCRB statement in person. § 87(2)(g)

[REDACTED]

Lt. Maloney and PO Carbone denied that Lt. Maloney made the alleged profane statements, or used any profanity toward § 87(2)(b) at any point during the incident. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

Allegation F—Discourtesy: On September 18, 2014, en route to the 52nd Precinct stationhouse, Lt. Kevin Maloney spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged in his unverified phone statement to the CCRB that when he was in the police vehicle with Lt. Maloney and PO Carbone, Lt. Maloney repeatedly told him, “Shut the fuck up.” § 87(2)(b) also alleged that Lt. Maloney told him, “Be quiet. Don’t say shit.” Lt. Maloney and PO Carbone denied that Lt. Maloney made the alleged profane statements, or used any profanity toward § 87(2)(b) during the incident. § 87(2)(g)

Allegation G—Force: On January 4, 2016, at East 197th Street and Briggs Avenue in the Bronx, PO Maria Imburgia used a chokehold against § 87(2)(b)

Allegation H—Force: On January 4, 2016, at East 197th Street and Briggs Avenue in the Bronx, PO Maria Imburgia restricted the breathing of § 87(2)(b)

Allegation I—Abuse of Authority: On January 4, 2016, at East 197th Street and Briggs Avenue in the Bronx, Lt. Maloney threatened § 87(2)(b) with the use of force.

§ 87(2)(b) alleged that while he was being handcuffed, PO Imburgia placed her forearm against the back of his neck, creating pressure thereto that restricted his breathing. § 87(2)(b) confirmed that he could still speak, but each time he did, PO Imburgia applied additional pressure to his neck. § 87(2)(b) did not get a chance to tell the officers that he was having trouble breathing, but he told PO Imburgia to take her arm off of his neck because she was hurting him. § 87(2)(b) further alleged that after he was cuffed, Lt. Maloney told him, “If you move, I’ll shoot you. I’m gonna hurt you.”

PO Imburgia denied that she put her forearm against § 87(2)(b)’s neck in the manner alleged. She denied using any forceful action against § 87(2)(b). Lt. Maloney and PO Hannigan denied that PO Imburgia put her forearm against the back of § 87(2)(b)’s neck, or used any force against § 87(2)(b). PO Imburgia could not recall whether § 87(2)(b) complained that he was having trouble breathing or that anything the officers were doing was hurting him. Lt. Maloney and PO Hannigan denied that § 87(2)(b) made any such complaint.

Lt. Maloney denied making the alleged threatening statement toward § 87(2)(b) or threatening to use any force against him. PO Imburgia and PO Hannigan further denied that Lt. Maloney made the alleged threat or any other against § 87(2)(b).

§ 87(2)(g)

Allegation J—Abuse of Authority: On January 4, 2016, at the 52nd Precinct stationhouse, Lt. Kevin Maloney authorized the strip-search of § 87(2)(b)

It is undisputed that Lt. Maloney authorized a strip-search of § 87(2)(b) which was then conducted by PO Hannigan, who was assisted by another officer. Lt. Maloney explained that he authorized the strip-search for several reasons; the first of which was that he had observed § 87(2)(b) make two sales of crack cocaine. Moreover, Lt. Maloney had recovered the drugs from an inner layer of clothing § 87(2)(b)'s sock), and § 87(2)(b) was wearing many layers of clothing, under which he could have secreted additional drugs. The extremely cold weather restricted the officers' ability to thoroughly search § 87(2)(b) on the scene. Lt. Maloney further testified that during § 87(2)(b)'s transport to the stationhouse, he observed § 87(2)(b) moving around in the back seat of the vehicle. Lt. Maloney saw § 87(2)(b) moving his torso from side to side, prompting him to instruct PO Imburgia to hold onto § 87(2)(b)'s handcuffs to prevent him from making additional movements. PO Hannigan testified that he was sitting in the front passenger's seat of the vehicle during § 87(2)(b)'s transport, so he did not see § 87(2)(b) moving around in the backseat. PO Imburgia did not recall whether § 87(2)(b) was moving around during his transport. Although § 87(2)(b) did not explicitly say that he was moving around in the backseat, he did say that Lt. Maloney asked PO Imburgia whether she was alright while seated in the backseat with him, raising the inference that Lt. Maloney observed something that he could not personally address as he was driving.

Upon his arrest, § 87(2)(b) was charged with § 87(2)(b). His case remains open, although some of the charges have been dismissed. PO Hannigan vouchered eight small clear plastic bags containing alleged crack cocaine in rock form in connection with § 87(2)(b)'s arrest.

Lt. Maloney denied that any prior knowledge of § 87(2)(b) factored into his authorization of a strip-search. Lt. Maloney testified that although he had arrested § 87(2)(b) as a result of a prior incident (the September 18, 2014 incident analyzed above), he neither recognized § 87(2)(b) nor was reminded of their prior interaction at this time. Lt. Maloney denied that there was any discussion of § 87(2)(b)'s past arrests or criminal history at the stationhouse. Lt. Maloney noted his authorization of a strip-search in the command log entry corresponding to § 87(2)(b)'s arrest, and further noted in his memo book his authorization of the strip-search.

Patrol Guide Procedure 208-05 stipulates that a supervisor may authorize a strip-search subsequent to an arrest when an arresting officer has articulated a reasonable suspicion that the arrestee is concealing evidence, contraband, or a weapon. Other factors that should be considered include the nature of the crime, arrest circumstances, subject's reputation, acts of violence, any discoveries or information from previous searches of the same individual or others arrested with said individual (Board Review 29).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation K—Abuse of Authority: On January 7, 2016, Det. Marcos Vazquez searched § 87(2)(b) in the Bronx.

Allegation L—Abuse of Authority: On January 7, 2016, Sgt. Joseph Agosta searched § 87(2)(b) in the Bronx.

Four officers from IAB Group 22 arrived at § 87(2)(b)'s house in order to interview him in regards to the complaint he had made against officers, and to effect his arrest pursuant to an open complaint. Sgt. Tergesen testified that prior to going to § 87(2)(b)'s house, he had scheduled an appointment with § 87(2)(b) let Sgt. Tergesen, Det. Vazquez, Sgt. Agosta and Sgt. Morin into his house. Sgt. Tergesen effected § 87(2)(b)'s arrest, and it was later processed by Det. John Ferretti of the 52nd Precinct Detective Squad. Upon his arrest, § 87(2)(b) was charged with the § 87(2)(b).

§ 87(2)(b) testified that he was interviewed by Sgt. Tergesen while Sgt. Morin sat next to him. While the officers were in his house, § 87(2)(b) observed an officer, determined via investigation to be Det. Vazquez walk into his kitchen, from where § 87(2)(b) heard him “messaging with” the forks and knives. § 87(2)(b) additionally alleged that he saw another officer, identified via investigation to be Sgt. Agosta, walk in the hallway, and briefly stick his head into § 87(2)(b)'s bedroom and that of his parents.

Sgt. Tergesen testified that after he handcuffed § 87(2)(b) he accompanied § 87(2)(b) to his bedroom, where he wanted to change his clothes. Sgt. Tergesen said that he also went into the kitchen on his way out in order to wash his hands, and that § 87(2)(b) had given him permission to do so. Sgt. Tergesen denied that any of the officers who accompanied him went into any other room besides the dining room, where the interview was conducted. Sgt. Tergesen did not believe that any officer touched any knife or fork inside § 87(2)(b)'s house.

Det. Vazquez, Sgt. Agosta and Sgt. Morin were identified via Sgt. Tergesen's testimony. None were interviewed because a disposition could be reached without their testimony.

Police officers are legally permitted to conduct a protective sweep of a home as an incident to an in-home arrest, even without a search warrant, reasonable suspicion or probable cause. This protective sweep must be limited in duration and scope; it must consist of a brief visual examination of any place where a person may be hiding, and take no longer than it takes to effect the arrest. It is meant to be chronologically confined to the time needed to eliminate any reasonable suspicion of any prevailing threat to the officers' safety. *Maryland v. Buie*, 495 U.S. 325 (1990) (Board Review 28).

§ 87(2)(g)

§ 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date